

**EDUCATIONAL EXAMINERS BOARD[282]**

**Notice of Intended Action**

**Proposing rule making related to practitioner contractual obligations and providing an opportunity for public comment**

The Educational Examiners Board hereby proposes to amend Chapter 25, “Code of Professional Conduct and Ethics,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 272.2.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 272.2(1).

*Purpose and Summary*

The proposed amendment is intended to clarify the section of the Board’s Code of Professional Conduct and Ethics pertaining to violation of contractual obligations. If the amendment is adopted, the Board would not have a legal basis to sanction the license of a practitioner who provides notice requesting release from a contract prior to, in the vast majority of cases, June 30. The Board would also not have a legal basis to sanction an administrator who hires a practitioner under contract at another district or accredited nonpublic school as long as that practitioner provided the required notice within the timeline referred to above.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on January 4, 2019. Comments should be directed to:

Kimberly Cunningham  
Board of Educational Examiners  
Grimes State Office Building  
400 East 14th Street  
Des Moines, Iowa 50319-0147  
Fax: 515.281.7669  
Email: [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov)

### *Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 2, 2019  
1 p.m.

Room 3 Southwest  
Grimes State Office Building  
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Amend subrule 25.3(5) as follows:

**25.3(5) Standard V—violations of contractual obligations.**

*a. Violation of this standard includes:*

~~(1) Signing a written professional employment contract while under contract with another school, school district, or area education agency.~~

(2) (1) Asking a practitioner to sign a written professional employment contract before the practitioner has been unconditionally released from a current contract, unless the practitioner provided notice to the practitioner's employing board as set forth in subparagraph 25.3(5) "b"(2). An administrator shall make a good faith effort to determine whether the practitioner has been released from the current contract.

~~(3) (2) Abandoning a written professional employment contract without prior unconditional release by the employer.~~

(4) ~~(3)~~ As an employer, executing a written professional employment contract with a practitioner, which requires the performance of duties that the practitioner is not legally qualified to perform.

~~(5) (4)~~ As a practitioner, executing a written professional employment contract, which requires the performance of duties that the practitioner is not legally qualified to perform.

*b. In addressing complaints based upon contractual obligations, the board shall consider factors beyond the practitioner's control. For purposes of enforcement of this standard, a practitioner will not be found to have abandoned an existing contract if:*

(1) The practitioner obtained a release from the employing board before discontinuing services under the contract; or

(2) The practitioner provided notice to the employing board no later than the latest of the following dates:

1. The practitioner's last work day of the school year;
2. The date set for return of the contract as specified in statute; or
3. June 30.